IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

WEDNESDAY, THE 29TH NOVEMBER 2006 / 8TH AGRAHAYANA 1928

OP.No. 3446 of 2001(I)

PETITIONER:

DR.C.T.FRANCIS,
LECTURER (IN SANSKRIT),
St. THOMAS COLLEGE, PALA.

BY ADV. SRI.ABRAHAM VAKKANAL

RESPONDENTS:

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1. THE STATE OF KERALA,
   REPRESENTED BY THE PRINCIPAL SECRETARY,
   DEPARTMENT OF HIGHER EDUCATION,
   SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DIRECTOR OF COLLEGE EDUCATION,
   VIKAS BHAVAN, THIRUVANANTHAPURAM.

3. THE DEPUTY DIRECTOR OF COLLEGIATE EDUCATION,
   KOTTAYAM

BY GOVERNMENT PLEADER SMT. BINDHU

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 29/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P.NO.5746 OF 2001 IN O.P.NO.3446 OF 2001

DISMISSED

29-11-2006 Sd/- A.K.BASHEER,JUDGE

TRUE COPY

P.A.TO JUDGE

A.K.BASHEER,J

O.P.NO. 3446 OF 2001

DATED THIS THE 29TH NOVEMBER,2006

JUDGMENT

Petitioner is working as Lecturer in Sanskrit in St. Thomas College, Pala. He was initially appointed as Junior Lecturer in the college with effect from June 1, 1987. According to the petitioner, he was entitled to get salary in the scale prescribed by the University Grants Commission (U.G.C.) with effect from his date of appointment. The primary prayer in the writ petition reads thus:

> I) "To issue a writ of mandamus or other appropriate order or direction commanding the second and third respondents to fix the petitioner's pay in the U.G.C. scale, which was due from 01.06.1987 and to pay the salary and arrears on that basis, within the time frame with 18% interest from 01.06.1987 and to recover it from the officers who caused delay in the fixation, after enquiry".

2. It appears that there was some uncertainty about the eligibility of the petitioner to get U.G.C. scale. However, it is the admitted position that the issue was settled by the order issued by the Government on August 3, 1999. The Government held that the

petitioner would be eligible to get “U.G.C. placement” with effect from 01.06.1987. A copy of the said order is on record as Ext.P5.

3. It is contented by the petitioner that there was a deliberate and willful attempt on the part of respondents 2 and 3 and the officers working under them, to deny the benefit of the U.G.C. scale to the petitioner right from 1993 onwards. It is pointed out by the learned counsel that another teacher namely Sri. K.M.Kurian, who was appointed as a Junior lecturer in the Statistics Department along with him, had been given the benefit of the U.G.C. scale in 1993 itself. But in the case of the petitioner, respondents 2 and 3 and their officers refused to pass a similar order solely for the reason that the petitioner did not agree to pay 10% of the amount payable to him as bribe. It is further contented by the petitioner that the representations forwarded from the college for sanction of the scale were returned for one flimsy reason or the other, with a deliberate intention to harras the petitioner and to delay payment.

4. In the statement filed on behalf of respondents 2 and 3, the entire allegations made by the petitioner have been denied. It is averred that as soon as the Government had taken a final decision in the matter, as revealed from the Ext.P5, steps were taken to quantify and release the amount to the petitioner. On October 8, 1999, the Principal of the college submitted petitioner's pay fixation proposal to

respondent no.3. Since, the proposal was not furnished in the admissible scale of pay, it was returned. Thereafter, the Principal had forwarded the relevant papers in March 2000. The communication was wrongly addressed to the Director instead of to the Deputy Director. Later, when the Director had forwarded the papers to the Deputy Director, it was noticed that the petitioner had not given the undertaking/declaration as required under the regulations. It is further averred that the fixation of pay was approved on January 1, 2001 and the copy of the order was forwarded to the Principal immediately. It is thus contented that there was no willful delay or laches on the part of either respondents no.2 or 3.

5. It has been brought to my notice that petitioner had been paid arrears of salary in the U.G.C. scale on June 17, 2002, pending this original petition. Of course, the payment was effected in obedience to an interim direction issued by this court on June 11, 2002. This original petition was filed on January 31, 2000. As noticed above, by the time the original petition was filed, the department had already forwarded the pay sanction order to the Principal of the college in the first week of January itself.

6. But still, there is some force in the contention raised by the petitioner that there was some avoidable delay in fixation of pay in the U.G.C. scale. But I am afraid the petitioner may not be entitled to

get interest as claimed by him. The statement filed on behalf of respondents 2 and 3 does not reveal that there was culpable or intentional delay on the part of the authority in processing the application for fixation of pay. The original petition is therefore, closed with liberty to the petitioner to pursue other remedy, if any, available to him seeking interest for the delayed payment.

A.K.BASHEER,JUDGE.

dvs